

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 97-830

January 30, 1998

MAINE PUBLIC SERVICE COMPANY  
Annual Increase Under Rate  
Stabilization Plan

ORDER APPROVING  
STIPULATION

WELCH, Chairman; NUGENT and HUNT, Commissioners

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**I. SUMMARY**

In this Order, we approve a Stipulation that resolves the issues in the Maine Public Service Company (MPS) annual rate change proceeding. By approving the Stipulation, we authorize a 3.9% rate increase to be implemented on February 1, 1998, resolve the ratemaking treatment of some of the 1997 and 1998 Maine Yankee-related costs, and establish a minimum rate increase of 3.1% for February 1, 1999.

**II. BACKGROUND**

On November 14, 1997, MPS filed materials in support of its annual rate increase under its previously adopted rate stabilization plan (RSP). See Order Approving Stipulation, Docket No. 95-052 (Nov. 30, 1995). The RSP is a comprehensive multi-year rate plan that contains, among other provisions, specified annual rate changes, a sharing of earnings outside a bandwidth, a sharing of Maine Yankee net replacement costs and Wheelabrator-Sherman (W/S) purchased power savings,<sup>1</sup> and customer service and reliability standards. Specifically, the RSP contains a specified February 1, 1998 increase of 2.75% (as well as a 2.75% increase on February 1, 1999) subject to the plan's sharing and customer service penalty provisions.

In its November 14 filing, MPS sought a February 1, 1998 increase of 7.59%, consisting of the 2.75% specified increase, a 2.2% increase for recoverable Maine Yankee replacement power costs, and a 2.62% increase for earnings sharing. The Company also indicated that it would be subject to a penalty of \$28,000 for failure to meet one of the customer service standards. As

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<sup>1</sup>The RSP states that any savings from the renegotiation of the W/S Purchase Power Agreement (PPA) will reduce specified deferrals that would be recovered in rates beginning in 2000. In our recent Order that approved the renegotiation of the W/S PPA, we stated that the savings would instead be used to offset rates during the remainder of the rate plan. Order Granting Certificate of Approval, Docket No. 97-727 (Jan, 15, 1998)

required, the filing included updated marginal costs for pricing flexibility and short-term energy only (STEO) rates for small power producers.

Additionally, the Company raised several other items to be resolved in this proceeding:

- ♦ Maine Yankee refueling outage. During the 1997 outage, Maine Yankee, in anticipation of restarting the plant, incurred refueling outage expenses (approximately \$43 million); MPS's share of the expense is approximately \$2.1 million. Consistent with prior practice regarding refueling outages, MPS sought to defer and amortize the costs over 18 months (Maine Yankee's previous refueling cycle). MPS began to amortize this amount in August, 1997 so that the unamortized balance on December 31, 1997 was approximately \$1,458,000.
- ♦ Maine Yankee resleeving expenses. The RSP provides for a 5-year amortization of the resleeving expenses incurred in 1995 that would leave approximately \$230,000 of these expenses unamortized by the end of the rate plan. Rather than including this amount as stranded costs, the Company proposed a modification so it would amortize the entire amount by the end of the rate plan.
- ♦ Maine Yankee Sharing. The RSP does not specifically address the sharing of Maine Yankee replacement power costs from October 1, 1998 to January 31, 2000 (the end of the rate plan), because the last rate adjustment is February 1, 1999, using an annual reporting period ending September 30, 1998. The Company requested that the Commission allow it to defer 50% of the net replacement costs for subsequent recovery.
- ♦ Wheelabrator-Sherman Savings. MPS proposed that it use the savings from the renegotiation of the W/S PPA to partially off-set its 50% share of recoverable Maine Yankee replacement power costs; savings during 1998 would off-set replacement costs during the same period.

On November 12, 1997, the Commission issued a Notice of Annual Review and Opportunity for Intervention. The Public Advocate filed for and was granted intervention. Both the Public Advocate and the Advisory Staff conducted extensive discovery on the MPS filing. Subsequently, the Company, the Public Advocate, and the Advisory Staff had numerous discussions regarding the resolution of the issues raised by the filing. As a result of these discussions, MPS filed, on January 16, 1998, a Stipulation

signed by it and the Public Advocate that resolves the issues in this proceeding.

### III. DESCRIPTION OF STIPULATION

The Stipulation provides for a February 1, 1998 rate increase of 3.9%. This amount represents the 2.75% specified increase plus approximately half of the recoverable Maine Yankee replacement costs during 1997 (\$562,000). The remaining \$523,000 of the 1997 Maine Yankee costs is deferred and will be recovered in rates as part of the February 1, 1999 rate change regardless of any future prudence determination. The Company agrees to waive any rights under the RSP to recover in rates all amounts associated with its 1997 earnings deficiency (\$1,280,000) and to write-off against 1997 earnings all of the unamortized Maine Yankee refueling outage expenses (\$1,458,000).

As part of the agreement, the parties agreed that the specified February 1, 1999 rate increase of 2.75% shall be reduced to 2.00%, resulting in approximately \$380,000 of revenue that MPS will not recover. The February 1, 1999 increase will, as stated above, include the remaining \$523,000 of 1997 Maine Yankee replacement costs. As a result, the Stipulation provides for a minimum increase of approximately 3.1% for February 1, 1999 with the Commission's having the discretion to authorize a greater increase. The Stipulation also states that the Company will be able to off-set its recoverable 1998 net Maine Yankee replacement power costs up to the amount of W/S savings, projected to be \$2.5 million. This amount of replacement costs will not be subject to disallowance as a result of any future prudence or reasonableness findings regarding Maine Yankee. Additional replacement power cost over those off-set by the W/S savings, estimated to be \$900,000, will be deferred but subject to a prudence disallowance. Finally, the Stipulation provides for a suspension of the customer service penalty pending the mid-term review of the RSP.

The Stipulation does not contain a provision modifying the recovery of 1995 Maine Yankee resleeving expenses. The amortization period will therefore remain unchanged.

On January 21, 1998, the Commission held a hearing during which the parties presented the Stipulation and responded to questions. At the hearing, parties agreed that the Commission should approve the updated marginal costs and STEO rates that accompanied the Company's initial November 13, 1997 filing. No party or interested person spoke against the stipulation.

#### IV. DISCUSSION

MPS's annual rate change filing is designed to be a summary proceeding intended to implement the provisions of the RSP. This year's filing, however, raises a difficult issue because it includes recovery of costs related to the Maine Yankee shutdown. MPS has indicated that virtually all of its requested 7.59% increase above the 2.75% specified amount in the RSP results from Maine Yankee-related costs. The recent permanent shutdown of Maine Yankee has raised issues regarding the reasonableness and prudence of the plant's management over the last several years. Accordingly, the Commission has opened an investigation of the matter, in part based on the findings of a management audit of Maine Yankee (submitted August 29, 1997). *Notice of Investigation*, Docket No. 97-781 (Oct. 24, 1997). To aid in this Investigation, the Commission ordered a further management audit of Maine Yankee; the results of this audit are expected in the near future. The prudence of Maine Yankee management has also been raised at the FERC (Docket Nos. ER98-570-000, EL98-14-000, EL98-15-000.<sup>2</sup> Because of the nature of the prudence reviews, ultimate findings and ratemaking consequences cannot be expected for at least several months.

To the extent that Maine Yankee's past actions were prudent, MPS is entitled under the RSP to recover some of its Maine Yankee-related costs through its February 1, 1998 rate increase. If imprudence is found, MPS may not be entitled to recover some or all of these costs. These circumstances create a dilemma in that, as a practical matter, the Commission can not litigate Maine Yankee prudence in the context of MPS's annual review.

The Stipulation in this case presents a creative solution to this dilemma. Essentially, the Stipulation resolves the Maine Yankee costs issue by providing that MPS will not recover certain costs to which it may be entitled, but will recover other costs that, if imprudence is found, may have been disallowed. This is accomplished by an agreement for a write-off of Maine Yankee refueling expenses,<sup>3</sup> a waiver of recovery of the 1997 earning sharing amount, a reduction in the specified 1999 rate increase,

<sup>2</sup>In an Order issued on December 2, 1997, the Commission stayed its Maine Yankee investigation pending a determination of the issues at FERC; the Order did not stay the ongoing management audit.

<sup>3</sup>There is an issue whether MPS was entitled to amortize any costs as a "refueling outage" during 1997. The same issue has been raised in the pending Bangor Hydro-Electric Company rate case (Docket No. 97-116). If the amortization was improper, MPS would recover half of the amortized amount through earning sharing (assuming prudence).

and recovery of a determined amount of 1997 and 1998 net replacement power costs. Amounts of 1998 net replacement power costs beyond the determined amount, as well as Maine Yankee-related costs after 1998 (e.g. continued purchase of replacement power), are subject to disallowance based on imprudence findings.

After careful consideration, we conclude that the Stipulation represents an appropriate balance of regulatory litigation risk, the need to moderate rate increases, and the uncertainty involving investigations of Maine Yankee prudence. We note that, even if imprudence is found, MPS is likely to recover some level of Maine Yankee-related costs; only the incremental costs resulting from imprudence generally would be subject to disallowance. Thus, the Stipulation provides a reasonable resolution of this proceeding.

Accordingly, we

O R D E R

1. That the Stipulation filed on January 20, 1998 is hereby approved and incorporated into this Order;
2. That Maine Public Service Company is authorized to increase its rates by 3.9% effective February 1, 1998;
3. That the updated marginal costs and short-term energy only rates filed on November 14, 1997 are hereby approved.

Dated at Augusta, Maine this 30th day of January, 1998.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
                                                 Nugent  
                                                 Hunt

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.